997.

SUPREME COURT OF THE UNITED STATES.

No. 103.

THOMAS WILSON & CO.

vs.

HORACE SMITH.

ON A CERTIFICATE OF DIVISION FROM THE CIRCUIT COURT OF THE UNITED STATES FOR GEORGIA.

CIRCUIT COURT OF THE UNITED STATES,
For the district of Georgia, in the sixth circuit:

The honorable James M. Wayne and John C. Nicoll.

THOMAS WILSON & Co.
vs.
HORACE SMITH.

This was an action of assumpsit brought in this court by the plaintiffs, to recover from the defendant the sum of eight hundred dollars and interest, being the amount of a draft or bill of exchange drawn by one Henry B. Holcombe, of Augusta, in the State of Georgia, upon one Charles F. Mills, of Savannah, in said State, and accepted by him, and paid to the defendant. The declaration contained two counts. The first was for money collected and received by the defendant to and for the use of the plaintiffs, upon the particular bill of exchange set out and described in the declaration; the second count was generally for money had and received. The plea of non-assumpsit was pleaded by the defendant in bar of the action, it being proved that the draft or bill of exchange upon which the money was collected and received by the defendant was the property of the plaintiffs; that it had been by them placed in the hands of their agent, David W. St. John, at Augusta, Georgia, for collection, and by him, St. John, forwarded to the defendant, St. John's agent, at Savannah, Georgia, for acceptance and collection; that it was accepted and paid to the defendant, by whom the proceeds were received and credited to the account of St. John, from whom the defendant received the draft or bill for collection, and who was indebted to the defendant at the time. That at the time the said bill was so paid to the defendant, and by him credited to the account of St.

J. & G. S. Gideon, Printers.